



Legislative Research Council

MINUTES

Highway Needs and Financing Committee

Senator Mike Vehle, Chair
Representative Mary Duvall, Vice Chair

First Meeting
2014 Interim

Room 413, State Capitol
Pierre, South Dakota

Tuesday, June 17, 2014

The first meeting of the Highway Needs and Financing Study Committee was called to order by **Senator Mike Vehle** at 8:30 a.m. in room 413 of the State Capitol in Pierre.

A quorum was determined with the following members answering the roll call: Senators Bob Ewing, Jean Hunhoff, David Omdahl, Larry Tidemann, Mike Vehle, Chuck Welke, and Jim White; Representatives David Anderson, Gary Cammack, Mary Duvall, Scott Parsley, Jim Peterson, Jim Schaefer, Mike Verchio, and Dick Werner.

Staff members present were Fred Baatz, Principal Research Analyst; Stephanie Gruba, Fiscal Analyst; David Ortbahn, Chief Analyst for Research; and Cindy Tryon, Senior Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council (LRC) and some documents can be found on the LRC website at <http://legis.sd.gov/Interim/CommitteeDocuments.aspx?Session=2014>.

Call to Order

Senator Mike Vehle, Committee Chair, called the meeting to order at 8:30 a.m. He asked the committee to introduce themselves and to tell why they requested to serve on this study committee.

State Highway System

Mr. Darin Bergquist, Secretary, SD Department of Transportation (DOT), introduced himself to the committee and distributed a copy of the PowerPoint presentation he and his staff would be referring to throughout the day (**Document #1**). Secretary Bergquist said that he and his staff would provide background information regarding highway assets, systems, responsibility, condition of assets, financial resources available, and projections on what is anticipated for the future.

Mr. Joel Jundt, Director, Division of Planning and Engineering, DOT, started the PowerPoint presentation by giving DOT's mission statement: *"To efficiently provide a safe and effective public transportation system."*

He explained that highways serve two basic functions: mobility and land access. All roads are important for different reasons, and the state roads are prioritized by functionality: 1) Interstate; 2) Principal (Major) Arterial; 3) Minor Arterial; and, 4) State Secondary (Major Collector).

There are 83,650 miles of roads in South Dakota, of which 8,850 miles are state highways. In the year 2013, there were a total of 9.114 billion vehicle miles of travel in South Dakota. 67.2% of those miles

were on the state system; 14.4% were on the county system; 14.1% were on municipal roads; 2.7% were on township roads; and 1.6% was on some other type of road. Of those miles traveled, 1,058 million vehicle miles were by heavy trucks on the state highway system and 257 million vehicle miles were by heavy trucks on non-state roads. One heavy truck is equal to 9600 cars in regard to the life of the pavement.

As far as the bridges in South Dakota, 72% are locally owned (3,173 bridges) and 28% are state owned (1,263 bridges). However, 60% of the total bridge deck area is on state owned bridges (10,505,265 sq. ft.) while 40% of the deck area is on locally owned bridges (6,941,541 sq. ft.).

Structurally Deficient is an engineering term used in the federally mandated National Bridge Inspection Standards (NBIS) Program, and does not mean a bridge is unsafe, but that DOT should consider repairing the deficiency. 4.7% of state structures are structurally deficient. *Functionally Obsolete* refers to a substandard feature within the structure but is not an indicator that a bridge is structurally unsafe. 5.1% of state structures are functionally obsolete.

In response to a question, Mr. Jundt said that there is a state plan in place to address the deficient and obsolete rated structures. There is a federal requirement that all structures must be inspected every two years. Mr. Jundt was asked about the capacity of the structures in the state to handle flood events. Mr. Jundt said that most structures are designed to withstand a 100-year event.

The DOT also does safety management for South Dakota roadways. They review locations where crashes have occurred and use roadway characteristics to predict crash potential along corridors. The emphasis areas in the strategic highway safety plan are: roadway departure crashes; intersection crashes; motorcycle crashes; unbelted vehicle occupant crashes; speeding-related crashes; drug and alcohol related crashes; and young driver crashes. Over 93% of accidents are caused by driver behavior rather than unsafe highways. The goal is a 15% reduction in the fatal injury crash rate by 2020.

In regard to highway projects, Mr. Jundt explained that DOT is mostly in preservation mode. In 2005, the DOT looked at the amount of revenue and funds available and decided that South Dakota could no longer afford to do expansion projects and that the focus should be on preserving the roads already in place. The DOT has a roadway van that travels the state routes throughout South Dakota collecting various types of information that assists in classifying the road deterioration. The engineers look at the collected data and determine what the best treatment is for each situation.

Mr. Jundt presented a slide showing the average highway construction cost per mile: reconstruct urban 5 lane concrete - \$4,950,000/mile; reconstruct interstate to concrete (4 lane) - \$2,050,000/mile; reconstruct rural 2 lane (asphalt) - \$1,360,000/mile; reconstruct rural 2 lane (concrete) - \$1,450,000/mile; mill & overlay 2 lane asphalt roadway - \$215,000/mile; chip seal 2 lane asphalt roadway - \$25,000/mile; reconstruct 100' long bridge - \$745,000.

DOT evaluates the surface conditions of the highway system. At this time, 42% are in excellent condition, 47% are in good condition, 9% are in fair condition, and 2% are in poor condition. In comparison, the pavement conditions in 1999 were 17% in excellent condition, 53% in good condition, 21% in fair condition, and 9% in poor condition.

Concrete pavement is expected to last 30 years or more. 226 miles of concrete pavement is near the end of its service life. Asphalt pavement is expected to last 20 years or more. About 2400 miles of asphalt pavement is near the end of its service life. **Representative Gary Cammack** asked that a breakdown of all those pavement projects be prepared and sent to the committee.

State highway funding is divided as follows: 74% - pavement; 13% - safety; 7% - bridges; 6% - capacity.

State and Federal Highway System Revenues/Funding

Secretary Bergquist continued the PowerPoint presentation. Federal highway funds are only eligible for: construction, preservation, planning and research, and safety. There is a high dependence on federal funds for construction programs. State highway funds are constitutionally dedicated to the maintenance and supervision of highways.

On most projects there is an 80-20 (federal-state) split regarding the funding. Interstate projects are a 90-10 (federal-state) split. The state does share some of the federal funding with local entities. Federal funding comes through obligation authority. The federal government approves the project and allocates a set amount for that project. As the costs occur, then funding is reimbursed from the federal highway trust fund to the state. DOT sends bills to the federal government every three days.

The federal highway trust fund is a \$50 billion a year program, but only has revenues of about \$35 billion. This means that the funds will be gone before the year is over. This same situation occurred in 2008 and Congress stepped in at the last minute and appropriated \$8 billion to complete the highway projects for that year. However, Congress has put new budget rules in place that will make it difficult for that solution to be used again this year. Secretary Bergquist said that there are some different options being considered by Congress and hopefully they will agree on a solution by August 1.

When asked by Senator Vehle what will happen if an agreement is not reached, Secretary Bergquist explained that each week the DOT makes a progress payment to a contractor on a project. Once that progress payment is made, a bill is sent to the federal government. Keeping in mind that there are several contractors working on several projects, these payments and billings are a constant turnover. Secretary Bergquist said that he guesses that if the funds run out, the federal highway trust fund will pay a percent of the billings and then give the state an IOU for the amount the fund is not able to pay.

State highway funds are raised through the state motor fuel tax and the 3% vehicle excise tax. There has been a steady growth in both those revenues since 2009. Total revenue of those two taxes was \$202.5 million in FY2009 and was \$237.5 million in FY2013. If raising these taxes as a way to increase highway funds was considered, raising the motor fuel tax one cent would raise an additional \$6.6 million. Raising the vehicle excise tax by 1% would raise an additional \$24 million. Both of those amounts are based on FY2013 tax collections.

The state highway expenditures are 88% on state highway maintenance and construction; 8% on buildings, equipment, and assets; and 3% on administration.

Local governments received about \$45 million in federal and state funds from DOT in FY2013. \$7.9 million of those federal funds go to local governments for bridges and some of those funds are used for the bridge inspections that need to be done every year.

In response to questions from the committee, Secretary Bergquist explained that there are some federal funds that can only be used for enhancement projects such as bike trails and cannot be used for any other purpose. The communities have to apply to DOT for those funds.

Secretary Bergquist also said that there is a funding exchange program that allows local government entities to swap federal funds that have severe restrictions for state funds that can be used for projects that are important to their community. This is an extremely beneficial program for the local government

entities and, in 2014, 25 counties participated and 3 cities participated exchanging a total of \$5.5 million.

Highway Revenue Collection and Distribution

Ms. Peggy Laurenz, Director, Division of Motor Vehicles, Department of Revenue, introduced Lisa Weyer, Deputy Director of the Division of Motor Vehicles. Ms. Laurenz gave a PowerPoint presentation, "Highway Funding Revenue Sources" (**Document #2**).

Motor Fuel Tax - Ms. Laurenz gave a history of the motor fuel tax, which was first implemented in 1933. She also presented a graph that compares South Dakota's current motor fuel tax rate with rates in the other states. South Dakota's rate of 22¢ per gallon falls about in the center of all rates, with Florida having the lowest rate at 4¢ per gallon and Pennsylvania being the highest at 40.7¢ per gallon. In FY2013, \$148,611,752 was collected in state motor fuel tax. Of those receipts, \$131,182,951 went to the state highway fund. The remaining dollars were distributed to 10 other funds.

Motor Vehicle Excise Tax - Ms. Laurenz then presented information regarding the 3% motor vehicle excise tax collected in South Dakota. South Dakota has the lowest motor vehicle excise tax of the surrounding states, except some counties in Montana may be at a lower rate. Total collections for the vehicle excise tax in FY2013 was: vehicle excise tax – 3% - \$70,366,057; rental gross receipts tax – 4.5% - \$1,683,090; prorated excise tax (based on semi-truck use in SD) - \$1,525,498; for a total vehicle excise tax collection for FY2013 of \$73,574,645.

Vehicle License Fees - Another revenue source Ms. Laurenz presented information regarding is the vehicle license fee collection. Those fees collected in FY2013 totaled \$96,453,317. Of that, \$80,174,812 was collected by the county and \$16,278,505 was collected by the state in prorated license fees. Of the fees collected by the county, 41.75% is retained by the county and 58.25% is sent to the state. The counties' share of the fees is distributed as follows: 22.5% to county road and bridge fund; 14% to special highway fund (townships); 5% to municipalities; and .25% to the county treasurers. The state's share of the fees is distributed as follows: 54% to local government highway and bridge fund; 2.5% to the state license plate revolving fund; and 1.75% to the motor vehicle fund. The prorated license fees that are collected by the state are distributed as follows: 41.5% remains with the county which is apportioned between the county, townships, and municipalities, and 58.5% is sent to the state which 97% of that money is deposited in the Local Government Highway and Bridge Fund.

In response to a question, Ms. Laurenz said that she would get information regarding the difference between the agricultural vehicle rate vs. the commercial vehicle rate and send it to the committee. Ms. Laurenz said that she would also get information to the committee regarding the fees and penalties that apply to motor vehicle license plates.

Wheel Tax – Although the wheel tax is imposed, collected, and used by the counties, Ms. Laurenz thought the information would be helpful to the committee. Currently, 46 counties collect a wheel tax and 30 of those impose the maximum amount of \$4/wheel. In CY2013, a total of \$11,918,089 was collected by the counties from the wheel tax.

Representative Jim Schaefer asked if the vehicle must be registered in the county in which the owner lives. Ms. Laurenz said it is in statute that a vehicle must be registered and licensed in the county in which the owner lives.

Senator Larry Tidemann asked if the rebates and dealer allowances are taken into consideration when calculating the excise tax. Ms. Laurenz said that the tax is based on the total consideration, including the amount of any rebate or dealer allowance.

Ms. Laurenz concluded her presentation with a slide showing the total amount the Division of Motor Vehicles allocated to the state highway fund in FY2013: Motor Fuel Tax - \$131,182,951; Motor Vehicle Excise Tax - \$73,574,645; Other Fees - \$320,282; for a total of \$205,077,878.

County Road Systems

Mr. Greg Vavra, SD Association of County Commissioners and SD Local Transportation Assistance Program (LTAP), gave a PowerPoint presentation, "The County Road System Looking toward the Future" (**Document #3**).

Current 2014 conditions of county paved roads: 20% - failing; 19% - poor; 32% - fair; 21% - good; 9% - excellent. Current 2014 conditions of county gravel roads: 9% - failing; 17% - poor; 30% - fair; 36% - good; 10% - excellent.

The number of county structures (bridges, box culverts, etc.) is 4,145. Of those, 1,045 are posted or deficient structures and 73 are closed bridges.

Mr. Vavra listed the following major concerns with county roads: the road system is deteriorating faster than the budget can cover the rehabilitation costs; most asphalt surfaces are at the end of their life cycle; asphalt surfaces do not have enough base strength under them to support modern loads; gravel surfaces are cheaper and easier to maintain, but people object to dust and loose material on the surface; and costs have risen far more rapidly since 2007 than the budget.

The three basic types of county road surfaces are gravel, hot-mixed asphalt, and blotter surface (put down gravel then spray with some asphalt to cut down on the dust). The LTAP determined that the best surfaces are: gravel for 150 or less daily traffic; blotter for 150-650 daily traffic; and hot-mix asphalt for more than 650 daily traffic. In doing cost comparisons, the 20-year life cycle cost per mile is: gravel - \$103,909; blotter - \$349,702; hot mixed asphalt - \$575,010. Many counties are discussing turning some asphalt roads back to gravel because of the ever increasing cost of maintaining asphalt roads. However, the county residents do not want to lose their asphalt.

Representative Dick Werner asked Mr. Vavra to provide a breakdown of how many miles of roads are black top and how many are gravel in each township/county. He also asked how many state roads have been turned back to the counties. Mr. Vavra said that he would try to get that information and provide it to the committee.

Mr. Vavra then presented information regarding county structures. He said that there are 3,176 bridges and 809 culverts on the county road system. Of those, 1,045 structures need to be replaced. At this time, there is funding available to replace 37 bridges annually, which is 3.5% of the deficient bridges. If a bridge is scheduled today for repairs, the work will be planned for 10 years from now.

Senator David Omdahl asked what the penalty is for someone damaging a bridge by exceeding the posted weight. Mr. Vavra said that the offender must replace the damaged bridge.

Representative Gary Cammack asked what increase in funding would be needed to maintain the quality of county roads that exists today. Mr. Vavra said that a 49% increase in funding would be needed.

Township Road Systems

Mr. Dick Howard, SD Association of Towns and Townships, and also served as Secretary of Transportation from 1985–1996, distributed three documents to the committee. He distributed “Township/County Tax Information with Populations” (**Document #4**), which lists every township by county, the townships populations and the amount of property taxes collected.

Mr. Howard also distributed, “Township Road Data Study” (**Document #5**), which includes maps and graphs giving detailed information regarding townships. There are 31,231 miles of township roads in South Dakota, of which 23,957 miles of those roads are gravel. Each township averages 35 miles of road and each mile of road averages 3 culverts. One of the biggest problems with township roads is culverts washing out or roads washing out and destroying the culverts.

Townships receive about 1.77% of property taxes collected, which totaled \$18,999,061 for FY2013. About 85% of township funds go toward roads and bridges.

In 2008, the condition of township roads was: 2% were very good; 53% were good; 37% were fair; and 9% were poor. In 2014, the condition of township roads is: 13% are very good; 31% are good, 27% are fair; 22% are poor; and 6% are closed. About 70% of township roads are full maintenance, 12% are minimum maintenance, and 18% are no maintenance or closed.

The third document Mr. Howard distributed was titled, “SD Highway Users Conference 1985 Legislative Recommendations – The Deal” (**Document #6**). The document conveys how the distribution of the motor vehicle excise tax, the gas tax and the license fees was affected by legislation passed in 1985.

Municipal Road Systems

Ms. Yvonne Taylor, SD Municipal League, pointed out that almost all of the growth in South Dakota occurs within the municipalities. Municipalities are also the most affected by environmental mandates. When discussing the farm to market needs in South Dakota, it is important to remember that county roads are the farm side, but municipal roads are the market side of that concept.

Cities devote a large share of their budgets to road system upgrades and expansions. There are 100 bridges located within city limits. As things get more expensive, more money is needed to do less work. Liability is an expensive consideration when roads and bridges dissolve to the point that they are a hazard.

Ms. Taylor said that roads and bridges have been an issue for a very long time and we can plan all we want, but without the necessary resources we are just dreaming.

South Dakota Roads are Vital Coalition

Ms. Deb Mortenson, Associated General Contractors, presented information regarding the South Dakota Roads Are Vital (SDRAV) Coalition (**Document #7**). SDRV is a group of associations with the common vision: *to ensure adequate long-term transportation funding for SD*. The coalition works to get information regarding roads and bridges to all South Dakotans in order to gain support for raising taxes and fees in order to increase state transportation funding by \$50-\$60 million annually.

The SDRV Coalition uses their website, <http://roadsarevital.org/>, as a means to distribute information. The coalition also develops and runs television ads, and advertises the website on other web pages.

According to SDRAV, a 10¢ per gallon increase in the state motor fuel tax would raise \$57 million, and a 2% increase in the motor vehicle excise tax would raise \$50-\$55 million. There has not been a state gas tax increase since 1999. The federal gas tax has not been increased since 1993.

According to SDRAV, poor roads contribute to one-third of the fatal crashes, cost each motorist an average of \$301 per year in damage and repairs to his/her vehicle, slow goods shipped to and from sites in South Dakota, and may encourage businesses to go elsewhere.

State Highway Condition Projections

Mr. Darin Bergquist, Secretary, SD Department of Transportation (DOT), continued the PowerPoint presentation from earlier in the day (**Document #1**). Secretary Bergquist said that DOT had over 1300 employees in the mid-90s and, through restructuring in the late-90s, has reduced the staff by over 300 FTE. In comparison to neighboring states, South Dakota's DOT has the fewest number of employees per road miles. Of the neighboring states, Minnesota has the most employees per road miles.

In response to a question, Secretary Bergquist said that he did not know of any time they had to delay a project because of not enough staff.

Secretary Bergquist said that the rate of construction inflation is much higher than the Consumer Price Index rate of inflation. In fact, construction costs have doubled in South Dakota since 1999. He said that construction projects are energy dependent and fuel prices have a much bigger impact on construction companies than on any other business.

The last time the state gas tax was increased was 1999. The last increase in the federal gas tax was 1993. As a nation, the number of overall miles travelled has flattened while the fuel efficiencies of vehicles have increased. The cost of construction continues to rise but the revenues collected in gas taxes have leveled out.

Secretary Bergquist reported that the DOT fleet has 4,705 pieces of equipment that must be maintained. The backlog of equipment needs within the department was \$8 million in 2012 and \$15.5 million in 2013. We are managing our fleet in the most cost-effective manner because of the lack of funding. There are 435 snowplows in the state fleet. A snowplow could be purchased for \$145,000 in 2008. The cost of a snowplow in 2013 was \$285,000.

Secretary Bergquist said that he sees no chance of increased federal funding in the next several years. DOT is basing projections on not having any federal funding growth over the next 10 years. The DOT will be focusing on maintaining the system in place today and doing very little expansion. And, if construction costs continue to increase at the rate that has been seen the past few years, the projections will have to be revised significantly.

Pavement conditions are projected to worsen as the federal dollars remain stagnant. In 2014, the pavement conditions are: 42% excellent; 47% good; 9% fair; 2% poor. In 2024, the projected pavement conditions are: 25% excellent; 23% good; 27% fair; 25% poor.

The first priority for maintenance is the interstate system. As more is spent to maintain the interstate, other roads receive less attention, with the lower volume state roads receiving the least amount of financing.

South Dakota has made a significant investment in the bridge system and keeps the health index of the bridges very high. In order to continue to do that, money is pulled from the pavement funding.

The Transportation Commission approves the DOT 5-year plan every year. The Commission approves every highway system project done on South Dakota's state roads. In August or September of each year, DOT presents recommendations to the Commission for their consideration and the Commission makes any adjustments they deem appropriate.

Secretary Bergquist and Mr. Jundt then responded to questions from members of the committee. The following are some of those responses:

Counties can raise levies for roads pursuant to SDCL 10-12-13 with an opt-out, but the levies can only be used to match federal dollars.

The center line rumble strips used in other states are still being studied and the opinions on those strips are mixed. South Dakota continues to focus on just using the rumble strips on the side of the roads.

There are new technologies being worked on that improve the life span of concrete and asphalt.

There has been a significant increase in traffic on Highway 85 in northwest South Dakota because of the oil boom in that area and in North Dakota. DOT is planning to put in some passing lanes on that highway to improve safety.

State DOT maintains the state highways that run through reservation land. Other roads on the reservation are maintained by the Tribes, who receive federal highway dollars through the Bureau of Indian Affairs (BIA).

Secretary Bergquist said that DOT will compile a list of all the roads that have been removed from the state system and turned over to a local entity and send that list to the committee.

Senator Vehle asked why South Dakota's highways and bridges are in such better condition than the roads and bridges in other states. Secretary Bergquist said that one reason is that South Dakota does not have to address the issues of major congestion areas like Minneapolis or Omaha. South Dakota's most severe congestion area is Sioux Falls, and those issues don't compare to the traffic issues in a major metropolis. Those types of issues can consume a large amount of highway funding.

Committee Discussion

The committee will split into subgroups and those subgroups will meet in several communities throughout South Dakota, including Yankton, Sioux Falls, Watertown, Aberdeen, Belle Fourche, and Rapid City. Those meetings will be held on varying dates in July.

The full committee will come back together August 26-27 in Pierre. At that meeting, the subgroups will give reports on the public hearings, presentations will be heard from several agencies and organizations, and the committee will start to discuss possible recommendations for solutions.

The committee's final meeting will be November 6, at which time a final report and possible draft legislation will be prepared. That report and any draft legislation will then be presented to the Executive Board for their consideration.

Adjournment

A MOTION WAS MADE BY REPRESENTATIVE PARSLEY, SECONDED BY REPRESENTATIVE SCHAEFER, THAT THE HIGHWAY NEEDS AND FUNDING STUDY COMMITTEE ADJOURN. The motion prevailed unanimously on a voice vote.

The committee adjourned at 4:30 p.m.

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